

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Kathy Bloks

(b) County of Residence of First Listed Plaintiff

Lehigh

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's

 Aaron Heshkov
 830 Lehigh St.
 Easton, PA 18042

DEFENDANTS

Kingspan Corporation

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding☐ 2 Removed from State Court☐ 3 Remanded from Appellate Court☐ 4 Reinstated or Reopened☐ 5 Transferred from another district (specify)☐ 6 Multidistrict Litigation☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 USC 12101

Brief description of cause:

Employment Discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6/13/12

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KATHY BLASKO
1040 West Maple Street
Allentown, PA 18102

Plaintiff

v.

KIDSPEACE CORPORATION
4085 Independence Drive
Schnecksville, PA 18078

Defendant

Civil Action No.: _____

JURY TRIAL DEMANDED

CIVIL ACTION – COMPLAINT

Plaintiff, KATHY BLASKO, brings this action against Defendant, KIDSPEACE CORPORATION, and avers as follows:

PARTIES

1. Plaintiff, KATHY BLASKO, is an adult individual, citizen and resident of Pennsylvania with an address of 1040 West Maple Street, Allentown.
2. Defendant, KIDSPEACE CORPORATION, is upon information and belief, a registered corporation authorized to do business in Pennsylvania which employs more than one hundred (100) employees with a mailing address of 4085 Independence Drive, Schnecksville, PA 18078.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 because Plaintiff's claims arise under federal law, the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*
4. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 to determine Plaintiff's related state law claims arising under the Pennsylvania Human Relations Act

(“PHRA”), 43 Pa. C.S.A. § 951 *et seq.*

5. Venue is proper in this District under 28 U.S.C. §1391(b) and 29 U.S.C. §1132(e) because the unlawful employment practices alleged below occurred in this District and because both parties reside in this District.

FACTUAL ALLEGATIONS

6. Plaintiff began working for Respondent in 1978 in the position of Teacher Aid, a position which she held for thirty-three (33) years until her termination in March 2011.
7. During the term of her employment, Plaintiff maintained an excellent employment record and was well-regarded by her supervisors and peers.
8. Plaintiff suffers from arthritis on her knees, of which Defendant is aware.
9. As a result of her arthritis, Plaintiff has been unable to restrain children if needed because doing so would place too much pressure on her knees.
10. Plaintiff informed Defendant of this restriction and Defendant in turn provided Plaintiff with a form of reasonable accommodation permitting her to keep her job position as Teacher’s Aid but with the limitation that she not be required to restrain children if needed.
11. Plaintiff surmises that one of the reasons why Defendant was able to extend this reasonable accommodation to Plaintiff was because as a Teacher Aid, she was always accompanied by at least one other person, a Teacher, while attending to classes.
12. In or about September 2010, Plaintiff was diagnosed with cancer, of which Defendant was aware.
13. At or about this time, Plaintiff applied for and was granted Short-Term Disability (STD) benefits due to her illness and was out on medical leave of absence from September 2010 until March 2011.

14. The period of leave referred to in the above paragraph was designated by Defendant as FMLA authorized leave.

15. In March 2011, Plaintiff was cleared by her physician and oncologist, Dr. John B. Villeneuve, M.D. to return to work with certain restrictions, namely (a) the need to use a cane for support; (b) to sit during her shift when possible; and (c) to avoid any trauma or pressure on a Port-A-Cath in place on her body which is a device used to administer intravenous chemotherapy.

16. The specific restrictions referred to in the above paragraph was communicated to her verbally by Dr. Villeneuve before releasing her to work and memorialized in writing by Dr. Villeneuve in a form entitled "Medical Certification of Ability to Return to Work" which he Completed, signed and dated March 15, 2011.

17. On March 28, 2011, Plaintiff reported to work and completed her shift for the day with the specific restrictions referred to above which were communicated to and afforded by Rick Houck, Site Supervisor.

18. On March 29, 2011, Plaintiff did not report to work due to illness.

19. On March 30, 2011, Plaintiff reported to Defendant's headquarters to attend a required CPR class.

20. After Plaintiff signed in she was instructed to report to Patti McDonald, Human Resources, to provide her the "Medical Certification of Ability to Return to Work" form referred to in paragraph sixteen (16).

21. When Plaintiff informed Ms. McDonald that she did not have the paperwork with her, Ms. McDonald insisted that Plaintiff return home immediately to produce this paperwork.

22. Ms. McDonald's insistence that Plaintiff go home to retrieve this information caused Plaintiff to feel extremely shaken as though she was being penalized and to feel concerned that her job was in jeopardy.

23. Plaintiff returned home and obtained paperwork which accurately described her needed restrictions, which she returned to Mr. Houck at her work site.

24. Approximately one hour after her return, Plaintiff was informed by Mr. Houck that she was to be sent home immediately without further notice or explanation.

25. Rather than proceed home, Plaintiff instead went back to Defendant's headquarters in order to seek an explanation for why she was being sent home.

26. Plaintiff was directed to an office where Ms. McDonald and Lisa Garbacik, Human Resources Manager, were awaiting her.

27. During the meeting which ensued, Plaintiff was informed that Plaintiff could no longer work for Defendant with her Port-A-Cath because of the allegedly volatile nature of some of the children at the facility and that, in essence, Defendant would simply not honor the restriction that Plaintiff's Port-A-Cath not be tampered with or excessive pressure applied to it.

28. Defendant's reasons for failing and refusing to accommodate Plaintiff's reasonable accommodation request is illegitimate and pre-textual and is especially doubtful because the only instance in which Plaintiff's Port-A-Cath could be tampered with would be in the event that Plaintiff would need to restrain a child which Defendant had previously and voluntarily restricted her from performing as an accommodation to her arthritis.

29. Plaintiff's employment was terminated during the meeting with Ms. McDonald and Ms. Garbacik.

ADMINISTRATIVE EXHAUSTION

30. Plaintiff has satisfied the requirement of exhaustion of administrative remedies for the ADA and PHRA and has received a “Right to Sue” letter dated March 23, 2012.

COUNT ONE

VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990, U.S.C. § 12101 *et seq.* – FAILURE TO PROVIDE REASONABLE ACCOMODATION AND DISCRIMINATORY DISCHARGE

31. Plaintiff incorporates herein by reference all of the foregoing paragraphs as though fully set forth below.

32. Plaintiff is an individual with a disability under the ADA and was otherwise qualified to perform the essential functions of her job.

33. Plaintiff was in need of and requested a reasonable accommodation to her disability.

34. Defendant’s refusal to provide a reasonable accommodation and termination of her employment constitutes discrimination in violation of the ADA.

35. Defendant’s failure to engage in an interactive process of communication with Plaintiff in order to find a reasonable accommodation to her disability constitutes discrimination in violation of the ADA.

COUNT TWO

VIOLATION OF THE PENNSYLVANIA HUMAN RELATIONS ACT 43 Pa. C.S.A. § 951 *et seq.* – FAILURE TO PROVIDE REASONABLE ACCOMODATION AND DISCRIMINATORY DISCHARGE (DISABILITY)

36. Plaintiff incorporates herein by reference all of the foregoing paragraphs as though fully set forth below.

37. Plaintiff is an individual with a disability under the ADA and was otherwise qualified to perform the essential functions of her job.

38. Plaintiff was in need of and requested a reasonable accommodation to her disability.
39. Defendant's refusal to provide a reasonable accommodation and termination of her employment constitutes discrimination in violation of the ADA.
40. Defendant's failure to engage in an interactive process of communication with Plaintiff in order to find a reasonable accommodation to her disability constitutes discrimination in violation of the ADA.

JURY DEMAND

41. Plaintiff demands a trial by jury of all issues in this action.

MESHKOV & BRESLIN

By: /s/ adm2795 _____
ADAM D. MESHKOV, ESQUIRE
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Date: June 10, 2012